

FILED 07 NOV 20 09:29USDC-ORM

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

IVAN LEE DIXON,

Civ. No. 06-1185-CL

Petitioner,

**ORDER DISMISSING HABEAS
CORPUS PETITION**

vs.

**BRIAN BELLEQUE, Superintendent,
Oregon State Penitentiary,**

Respondent.

This matter having come before the Court on the motion of the Petitioner to voluntarily dismiss his habeas corpus petition,

IT IS HEREBY ORDERED that the Petition for a Writ of Habeas Corpus is dismissed without prejudice. In the event that the decision in *Blakely v. Washington*, 542 U.S. 296 (2004), is later made retroactive to cases on collateral review, Petitioner has leave to reopen this case only as to the *Blakely* issues, and the limitations period shall be deemed tolled from the date this Order is signed until sixty (60) days after the date of the decision rendering *Blakely* retroactively applicable. If *Blakely* is made retroactive and the Petitioner moves to reopen this case during the above-

referenced 60-day period, Petitioner may also amend the Petition as of right so as to properly plead all *Blakely*-based claims in this Court.

IT IS SO ORDERED this 20 day of November, 2007.



The Honorable Mark D. Clarke
U.S. Magistrate Judge

Submitted by:

/s/ Thomas J. Hester
Thomas J. Hester
Attorney for Petitioner

Lester Huntsinger (by consent)
Attorney for Respondent